

Law Society of Ontario

FOLA raises concerns over FullStop campaign claims on law libraries; FullStop stands by statements

By **Amanda Jerome**

(March 16, 2023, 4:51 PM EDT) -- The Federation of Ontario Law Associations (FOLA) has issued a statement calling out FullStop Team campaign materials regarding courthouse law libraries as "misleading or incomplete" and "misrepresentative of the record of some FullStop benchers and leadership figures on these very issues."

In a statement, issued March 15, FOLA's board of directors noted that "funding for county and district law libraries is an issue at the forefront of the 2023 bencher election campaign," which "underscores the importance of these vital practice resources to the legal profession."

"It also underscores the need to elect benchers that recognize that funding for courthouse libraries is central to the mandate of the Law Society of Ontario to ensure its licensees meet high standards of competency and professional conduct and to facilitate access to legal services for people across Ontario," the statement explained, noting that FOLA's board became aware of "some concerning statements in campaign literature from the FullStop slate, including commentary which impacts FOLA's advocacy in support of sustainable library funding."

FOLA's statement draws attention to a note on the FullStop Team's website, which indicates that "members of the FullStop slate had brought forward a motion at Convocation in October to freeze annual fees at the 2022 level; that no member of the FullStop slate has proposed that library funding be 'offloaded' to the Law Foundation of Ontario; that members of the FullStop slate brought forward a motion in 2022 to 'find efficiencies' in the Law Society's budget; that the physical closure of law libraries during the pandemic justified budget cuts; and that the 2023 budget for law libraries was passed with FullStop's support."

"Respectfully," the board added, "these statements — which FullStop represents as factual — are misleading or incomplete."

"They are also misrepresentative of the record of some FullStop benchers and leadership figures on these very issues," the board's statement added.

FOLA's statement then highlighted multiple instances where benchers, who are now running as candidates in the FullStop Team, have voted for budget cuts or voted against/abstained from votes on "funding LiRN (which is the corporation that funds courthouse libraries)." The board's points are supported by links to minutes of Convocation, which are publicly available.

"FOLA's board felt strongly about offering these clarifications as part of our effort to ensure that full and accurate information is available to voters in this election process. We encourage all candidates and campaign teams to focus on the important issues facing our profession in a manner consistent with their professional duties of candour and good faith," the statement added.



Douglas Judson, Federation of Ontario Law Associations

When asked what inspired FOLA's statement on this issue, FOLA's chair Douglas Judson, noted that "people who participate in the election as voters need to understand that FOLA's primary role is to advocate on behalf of county and district law associations and support their courthouse libraries."

"That's a front-line issue for us in any bench election, ensuring that a slate of benchers is being elected who understands that the decisions made at Convocation have an impact on libraries and therefore an impact on the viability of practice in smaller centres across the province," he said, explaining that after communication about law libraries was issued by the FullStop Team earlier this month, FOLA was "concerned that perhaps the record at Convocation was not being as accurately portrayed as it should have."

"I think the statement that we put out reflects the facts. We've linked directly back to the minutes of Convocation, and just tries to ensure that voters have full information about the record of decisions related to funding that finds its way to their local law library," he added in an interview with Law360 Canada.

Judson believes that this is a "foundational turning point for Convocation."

"We saw the beginnings of the slate-based approach to the election in the last cycle. Now, that has evolved. We've got competitive slates; we've got a number of independents running, but really what it comes down to is two competing visions for what the law society is, what it ought to stand for and how it implements its mandate to regulate in the public interest," he said, noting that FOLA wants voters to think about what the "consequences" of their vote will be for "their ability to practise and for the ability of people in their community to access legal services."

"For the types of firms that tend to be county and district law association members, and those are often sole practitioners and smaller firms, the ability to have access to a modern, properly resourced courthouse library makes that possible. It's a tremendous pillar upholding the law society's mandate to facilitate access to legal services for the people of Ontario. So, we're trying to inform lawyers of what the issues are," he added.

According to Judson, FOLA will be doing a candidate questionnaire and "will be publishing all the responses," which will help lawyers "cut through some of the rhetoric that's coming out of the campaigns and think about how their vote is going to directly impact, not just their practice, but people in their community who are seeking legal services."

"I think the big message from the statement we put out is: it's one thing to say you support district law libraries, but it's quite another to make decisions at Convocation that implement that promise," he explained, noting that the record shows "blanket cuts and attempts to reduce annual fees."

"Obviously all of us want to pay less to practise, to have our licence renewed every year, but at the end of the day, if I'm the administrator of the law society and all you're giving me to work with is that I need to find 25 or 10 per cent in cuts, the first thing I'm going to go after are the low-hanging fruit of the outside costs, like courthouse libraries," Judson stressed, emphasizing it's "important for people to understand and to be asking hard questions" about budget cuts.

"What are the items that are going to be on the table? Where do they expect to find those savings? And I think those are the types of questions that people need to ask because if you don't ask them, and then you vote, there could be negative consequences for your practice and the supports that you

enjoy from the law society," he concluded.

The FullStop campaign team told Law360 Canada that its previous statement on the issue "stands."

"There is a range of views on the slate regarding LiRN funding, both now, and during the last term. (Fully half of the candidates on the FullStop slate were not benchers during the last Convocation.) Most of the members of the FullStop slate support LiRN funding, but some also question whether they should be funded every year at whatever level they seek. As with all aspects of the budget, prudent managers ensure that resources are being utilized appropriately," the FullStop campaign team said.

The FullStop campaign team noted, as it did in its campaign materials, that the "Law Foundation of Ontario [LFO] used to provide at least \$500,000 of county law library funding annually, toward a LiRN budget that is now \$9.5 million; but for the last 10 years, nothing."

"That's more than \$5 million of library funding that has just evaporated," the campaign team asserted, noting that the *Law Society Act* "obligates the LFO to at least consider contributing to the annual funding for law libraries using money that comes from the interest accrued on lawyers' trust accounts."

"In 2021 Convocation refused to pass a Slate motion urging the LFO to support law libraries. No one suggests that funding for libraries should be entirely offloaded to the LFO, as Douglas Judson misleadingly alleges, or that libraries should necessarily suffer cuts. Some benchers were simply looking to tap into other resources before turning to the membership to cover the costs with their dues," the campaign team explained.

As the FullStop campaign team noted, a debate was held at Convocation in 2021 regarding LFO's support for law libraries. At that time, various benchers involved with the LFO noted the "inappropriateness" of the slate's motion.

As previously reported by Law360 Canada, bencher Jack Braithwaite, who is also an LFO trustee, emphasized the "inappropriateness" of the motion's directive, describing it as "unnecessary" and "meaningless."

"Simply stated, the LFO did not stop the funding of libraries in 2014. What it did was defer payment at that time because it found low usage in what they were funding, in particular Quicklaw [usage]. At that point, Library Co., which was the body which received the monies to disperse amongst the various libraries across the province, was undergoing its own operational and structural issues," he said during that debate, noting that from 2015-2019 Library Co. "did not make an application" for funding.

"We do not know why it did not make an application, but that's the necessary ingredient for the Law Foundation to look at. The Law Foundation doesn't just give out monies; it needs an application. It needs to review that application," he added.

At that time, Braithwaite also noted that by 2019 Library Co. dissolved and the Legal Information and Resources Network (LiRN) is the new body covering the law libraries.

"The Law Foundation met with LiRN in August of this year [2021] and that discussion centred around funding. The CEO of LiRN advised, at that point, they weren't applying for any monies because they were going through their own strategic planning session and once they'd gone through that, and from that moment on, they'd discern what their goals would ... be going forward. They advised the LFO, once that is completed, they will then apply for funding," he said, stressing again that LFO has not funded LiRN because no application has been made.

Braithwaite noted that without an application the LFO is "not in a position to give out money or to review the application."

During this debate, bencher Michelle Lomazzo addressed the motion from a governance perspective, noting that "never" in her 25 years sitting on boards of directors has she seen "one board purporting to exert control over another board of directors."

"Each board of director member has a fiduciary duty to the board of directors they sit on. They're effectively trustees of a trust, and they owe duties dictated by the terms of that organization's legislative and trust framework. How the movers of this motion think that they can dictate or encourage how board of director members we've appointed to another board on how to vote is both illogical and inappropriate," she added before the motion was voted down.

The FullStop campaign team's response to FOLA's statement turned from support of law libraries to highlighting the behaviour of the association's chair.

"Members of FOLA should know that its chair, Douglas Judson, is not a neutral observer in this campaign. He and his law partner have aggressively attacked the slate online and even sought to have one of our candidates fired from his job as a university professor, after grossly misrepresenting his comment," the campaign team said, drawing attention to interactions Judson and FullStop candidate Stéphane Sérafin have had on Twitter regarding drag shows.

"This is the censorious, bullying culture that has come to be expected from members and supporters of the big governance coalition he [Judson] endorses, and others in the legal establishment who have allowed vested interests to control the law society for far too long," the FullStop campaign team added.

The FullStop campaign managers include bencher candidate Lisa Bilty, Queen's University Faculty of Law professor, Bruce Pardy and London-based lawyer, Michael Menear.

In response to the FullStop's statement about his behaviour, Judson said he would not respond to their *ad hominem* comments, but he did say that "if the FullStop campaign truly cares about protecting county and district law libraries, they would simply come out and say so."

"Instead," he noted, they issued "this equivocation and ad hominem attack. The statement that we [FOLA] issued is attributed to the FOLA board. It was sent with the force of the entire board following our meeting on March 9th."

The FullStop Team is running in the Law Society of Ontario's bencher election. The voting period for the bencher election will be open April 19-28 and the results will be announced on May 1.

If you have any information, story ideas or news tips for Law360 Canada, please contact Amanda Jerome at Amanda.Jerome@lexisnexis.ca or 416-524-2152.